

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

IN RE: Bair Hugger Forced Air Warming
Products Liability Litigation

MDL No. 15-2666 (JNE/FLN)

This Document Relates to:

PLAINTIFF,

***CARLOS PIMENTEL v. 3M Company, et
al;*** Case No. 17-cv-03899

**DECLARATION OF ALFRED A. OLINDE, JR. IN SUPPORT OF PLAINTIFF'S
RESPONSE TO DEFENDANTS' MOTION TO DISMISS**

I, Alfred A. Olinde, Jr, declare as follows:

1. I am an attorney at The Olinde Firm, LLC and Counsel for Carlos Pimentel in the above-captioned matter.
2. I submit this affidavit in opposition to Defendants' Motion to Dismiss for Failure to Comply with Pretrial Order No. 14 [Dkt. 1317] filed on July 3, 2018.
3. In October of 2015, Plaintiff Carlos Pimentel contacted undersigned counsel regarding an infection and subsequent treatment that he experienced due to the use of a Bair Hugger patient warming device during an orthopedic surgery.
4. Counsel worked to obtain medical records and billing records to move forward with the case. Those records indicated that a Bair Hugger device was used during the original surgery.
5. On August 23, 2017, counsel filed the current action to comply with what was identified as the applicable statute of limitations deadline for the relevant claim.
6. On December 14, 2017, Plaintiff served his fact sheet upon Defendants.
7. On January 11, 2018, Defendants sent counsel for Plaintiff a deficiency letter stating certain sections of the fact sheet were "incomplete", a copy of which is attached as exhibit "One".
8. On January 31st 2018, Plaintiff amended his Fact Sheet and sent notice to defense counsel by way of correspondence via email and U.S. mail that the fact sheet had been amended to satisfy Defendants' concerns, a copy of which is attached as

exhibit “two”.

9. February 28, 2018, Defendants sent the exact same letter to Plaintiff’s counsel, again, stating that certain sections of the fact sheet were “incomplete”, a copy of which is attached as exhibit “three”.
10. On March 7, 2018, Counsel amended Mr. Pimentel’s Plaintiff Fact Sheet, and sent notice to defense counsel by way of correspondence via email and U.S. mail that the fact sheet had been amended to satisfy Defendants’ concerns, a copy of which is attached as exhibit “four”.
11. A copy of Mr. Pimentel’s current fact sheet is attached as exhibit “five”.
12. Efforts to have Mr. Pimentel complete the Plaintiff Fact Sheet have been complicated by the inability to contact the client. Counsel sent correspondence on April 4th 2018 asking Plaintiff to contact the office.
13. On May 4, 2018, Mr. Pimentel called the office; however, subsequent attempts to reach him telephonically have been unsuccessful.
14. Mr. Pimentel has substantially completed the fact sheet and is nearly 80 years old. The deficiencies cited relate to addresses and phone numbers for pharmacies and dates of birth of his children.
15. On July 9, 2018, Counsel for Plaintiff sent Mr. Pimentel correspondence again requesting that he contact the office.

Pursuant to 28 U.S.C. (insert section) 1746(2), I declare under penalty of perjury that the foregoing is true and correct.

Dated: July 11, 2018

s/Alfred A Olinde, Jr.
Alfred A. Olinde, Jr.